

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Anne E. Thompson  
v. : Crim. No. 07-454 (AET)  
WILFREDO BERRIOS, :  
a/k/a "Robo Cop," :  
FRANCISCO HERRERA-GENAO, :  
a/k/a "Fongi," and :  
EFRAIN LYNN, : ORDER  
a/k/a "Pepino"

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AT 8:30                      M  
WILLIAM T. WALSH  
CLERK

This matter having come before the Court on the pre-trial motions of the United States of America (Christopher J. Christie, United States Attorney for the District of New Jersey, Charles B. McKenna and Jacob T. Elberg, Assistant United States Attorneys, appearing), and of the defendants, Wilfredo Berrios, by and through his attorney John S. Furlong, Esq.; Francisco Herrera-Genao, by and through his attorney Martin D. Matlaga, Esq.; and Efrain Lynn, by and through his attorney David R. Oakley, Esq.

AND the Court having reviewed the pretrial motions of the defendants and the Government including: Defendant Lynn's pretrial motion submitted June 28, 2007, and the Government's opposition submitted July 2, 2007 [Docket # 20]; Defendant Herrera-Genao's pretrial motion submitted January 29, 2008 [Docket # 28] and the Government's opposition submitted February 15, 2008 [Docket # 32]; the Government's in limine motion filed October 24, 2008 [Docket # 46] and Defendant Lynn's response

[Docket # 50]; Defendant Lynn's motion to preclude certain evidence at trial [Docket ## 48 and 55]; Defendant Herrera-Genao's letter of November 7, 2008, regarding the insanity defense and the Government's letters of October 27, 2008, and November 12, 2008, regarding the insanity defense; the Affidavit of Defendant Lynn submitted November 16, 2008; and the Government's letter of November 14, 2008;

AND the Court having heard argument and, as set forth herein, heard testimony;

IT IS THE FINDING OF THIS COURT that:

(1) Following an evidentiary hearing, Defendant Efrain Lynn's motion to suppress his April 5, 2007, statement is DENIED;

(2) Following an evidentiary hearing, Defendant Francisco Herrera-Genao's motion to suppress his April 6, 2007, statement is DENIED;

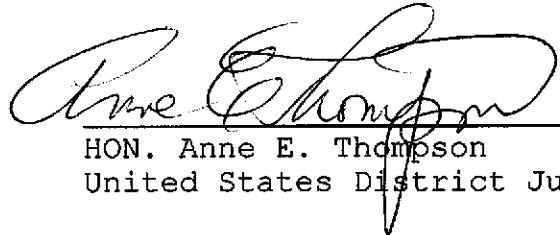
(3) The Government's in limine motion filed October 24, 2008 [Docket # 46] is GRANTED IN PART. The Government's proposed evidence regarding the theft of navigation systems from automobiles, and of motorcycles, by defendant Lynn is admissible in the event that Michael Cruz testifies at trial. The Government's proposed evidence regarding an attempted car-jacking by Defendant Herrera-Genao on April 6, 2007, is admissible. The Government and Defendant Lynn SHALL attempt to agree upon a stipulation regarding the whereabouts of Defendant Lynn on April 5, 2007. If the parties cannot reach an agreement, the Court

will rule on the issue at the time of trial.

(4) Defendant Herrera-Genao's motion to appoint new counsel [Docket # 52] is DENIED.

(5) Regarding Defendant Herrera-Genao's proposed insanity defense, Defendant Herrera-Genao is to submit a response to the Government's letter brief dated November 12, 2008 (submitted under seal). The Court will then rule on the Government's motion to preclude the proposed testimony.

(6) Rulings on Defendant Lynn's motion to preclude certain evidence at trial [Docket ## 48 and 55] is reserved until the time such evidence is to be presented at trial.



HON. Anne E. Thompson  
United States District Judge